

## REMARKS

This Response to Office Action relates to Patent Application Serial No. 09/461,487, filed on December 14, 1999. Claims 1-29 are pending in the application and stand rejected. Claims 1-6, 18-20 and 26 have been amended, Claims 11-15, 17-18, 22-25 and 29 have been canceled, and Claims 31-36 have been added. Claims 1, 6, 11, 16, 18, 19, 22 and 26 stand rejected under 35 U.S.C. §112, second paragraph as being indefinite. Claims 1, 6, 11, 16, 18-24 and 26-28 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. No. 6,389,448 to Primak et al. Claims 2, 3, 7, 8, 17 and 25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Primak in view of U.S. Pat. No. 5,535,322 to Hecht. Claims 4 and 9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Primak in view of Hecht and in further view of U.S. Pat. No. 5,884,301 to Takano. Claims 5 and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Primak in view of Hecht and in further view of Takano and in further view of U.S. Pat. No. 5,617,570 to Russell et al.. Claims 12 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Primak in view of Takano. Claim 14 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Primak in view of Takano, and in further view of Hecht. Claim 15 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Primak in view of Takano in further view of Hecht and Russell. Claims 17 and 25 stand objected to as being of improper dependent form.

Regarding paragraph 5 of the Office Action, the Examiner is directed to 37 CFR § 1.8(a)(1) which provides that a mailing is considered as being timely filed if mailed prior to the expiration of the period, deposited as first class mail and including a certificate of mailing stating the date of deposit. The Response to Office Action was deposited as first class mail on April 17, 2003 including a certificate of mailing. As stated in the Office Action, the due date with a one month extension was April 18, 2003. A petition for the one-month extension was included with the mailing. Accordingly, no further extension is required and the Application should not be subject to abandonment. If there are further facts which justify abandonment, the Examiner is asked to please contact the undersigned attorney.

Regarding paragraph 9 of the Office Action, the Examiner noted that the Microsoft Knowledge Base Articles offer examples of several types of off-line error messages that render the claim language unclear. A search was performed in the Microsoft Knowledge Base using the

search term “offline server” and “offline error message” and only one article appeared for the “offline error message” search and the following appeared for the “offline server” search:

### **Offline Servers Are Not Removed from the Service Table**

The information in this article applies to:

- Microsoft SNA Server 4.0 SP3

This article was previously published under Q271516

**IMPORTANT:** This article contains information about modifying the registry. Before you modify the registry, make sure to back it up and make sure that you understand how to restore the registry if a problem occurs. For information about how to back up, restore, and edit the registry, click the following article number to view the article in the Microsoft Knowledge Base:  
256986 Description of the Microsoft Windows Registry

### **SYMPTOMS**

The **DeleteNonActiveServers** registry entry that is documented in the Microsoft Knowledge Base does not appear to work as described when you use the Microsoft Systems Network Architecture (SNA) Server client for Microsoft Windows NT. For additional information, click the article number below to view the article in the Microsoft Knowledge Base:

236578 Offline Servers Should Be Removed from Clients'  
Service Table

After you restart SnaBase on a client computer, an offline server may still be shown in the list of sponsor servers.

### **CAUSE**

The **DeleteNonActiveSponsors** registry entry behaves differently on Windows NT clients compared to Microsoft Windows 95 and Microsoft Windows 98 clients. The Windows 95 or Windows 98 client removes a sponsor server entry if a server's SnaBase is not active. However, the Windows NT client only removes the sponsor server entry if the server's name cannot be resolved to a network address during the service startup. If the name of the offline server can be resolved, the entry is not removed.

It is clear from the above that off-line server means a non active server. Moreover, the term that was searched and which is the subject of the 112 rejection “off-line error message” is not present in the claims. Rather, the claimed language is “an error message to the client that the server is off-line” which is inherently self-defining in accordance with known definitions such as

is available through a dictionary. See, e.g. <http://dictionary.reference.com/search?q=off-line> and the like.

Further regarding paragraph 9, the Examiner noted that it was unclear as to whether the server was actually offline or online and sending a message in claims 1, 6, 11, 16, 18, 19, 22 and 26. The Applicant respectfully points out that whether the server is online or offline is irrelevant to a §112, second paragraph rejection and that the claims are to be read in light of the specification for patentability purposes. However, the claims have been amended to provide clarity and consistency with the specification.

**Claim Rejections – Claims 1, 6, 11, 16, 18-24 and 26-28**

Claims 1, 6, 11, 16, 18-24 and 26-28 stand rejected under 35 U.S.C. §102(e) as being anticipated by Primak. Primak teaches a load balancing and distributing system for servers and server clusters that optimizes packet throughput by providing that each server connect based on ranges of connection values. Col. 2, lines 25-44. More particularly, a server receives a packet and evaluates the packet by calculating a pseudo-random number and then determines the availability of each server. Packets can be discarded based on the pseudo-random number and the availability of servers. Importantly, as described in Columns 3 and 4 of Primak, the load balancing does not consider the characteristics of a client that sent the packet. Moreover, Primak fails to teach a server that considers the ability of the server to fulfill a request from a client to determine whether the server is appropriate. Primak, which teaches load balancing, addresses each packet as identical subject to evaluation using server-derived criteria.

In contradistinction to Primak, Claim 1 as amended provides that a server determines “whether the server is inappropriate to fulfill the request based on characteristics of the client” and “if the server determines that the server is inappropriate to fulfill the request,” the server sends “an error message to the client, the error message identifying the server as being off-line to enable the client to send the request to a next server on the list of servers.” Primak fails to teach or suggest determining if a server is inappropriate to fulfill a request based on characteristics of

the client as required by Claim 1. Claims 2-5 depend from Claim 1 and are allowable over Primak for at least this reason.

Claim 6 as amended provides for “determining that the response comprises an error message that the server is off-line, even though the server is on-line” in contradistinction to Primak. Specifically, Primak does not teach sending an error message that an on-line server is actually off-line. Thus, Primak fails to teach or suggest the limitations of Claim 6 and Claim 6 is allowable over Primak. Claims 7-10 depend from Claim 6 and are allowable with Claim 6. Claims 11-15 were canceled.

Claim 16 as amended teaches a client that will “automatic repeat sending” a request “each time an error message is received indicating that a server is off-line, the off-line error message received from on-line servers that determine that the client computer is incapable of receiving delegated responses to requests and from servers that are off-line.” Primak fails to teach or suggest an off-line error message from on-line servers when a server determines that a client is incapable of receiving delegated responses as claimed. Accordingly, Claim 16 is allowable over Primak. Claim 17 depends from Claim 16 and is allowable with Claim 16. Claim 18 has been canceled.

Claim 19 as amended provides that “upon determining that the server is inappropriate to fulfill the request due to the client being non-delegable such that the client would not understand a delegation of the request to another server, sending an error message to the client that causes the client to forward the request to an alternative server ...” and is not taught by Primak. As discussed above, Primak teaches load balancing. Each of the figures and the discussion in Primak addresses a server cluster and how packets received by the server cluster will be handled without having to drop packets due to an unbalanced load. The office action directs the Applicant to consider actions taken by an “agent” that is located within each server in the server cluster (e.g., Figure 4a). The agent is a program or application that monitors the server’s internal conditions. Col. 4, lines 10-26. The servers each assign client computer 60 a connection value

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that is a server-generated value having no relation to the characteristics of the client computer 60. Thus, Primak fails to teach or suggest the limitations of Claim 19. Claims 20-21 depend from Claim 19 and are allowable with Claim 19. Claims 21-25 have been canceled.

Claim 26 as amended provides, inter alia, "means for sending via the communications device an error message that a computer is off-line in response to a request from a non-delegable client that does not understand a delegation of the request to another server when the computer is on-line but is inappropriate to fulfill the request." Primak fails to teach or suggest sending off-line error messages when a computer is on-line. Accordingly, Claim 26 is allowable over Primak. Claims 27-28 depend from Claim 26 and are allowable with Claim 26 for at least this reason. Claim 29 has been canceled.

The Applicant has reviewed the prior art references of Hecht, Takano and Russell and find that Hecht, Takano and Russell neither alone or in combination with Primak teach what Primak fails to teach with regard to the independent claims discussed above.

#### **New Claims -Claims 30-36**

Applicants have also added new claims 30-36. Support for new Claims 30-36 is found in the originally presented claims and in the Specification at least on pages 15-17. Applicants request consideration of new Claims 30-36, and submit that they are allowable over the cited references for at least the same reasons as those discussed above.

In view of the foregoing amendments and remarks, applicants submit that the present application is in condition for allowance. An early and favorable action is earnestly requested.

#### **CONCLUSION**

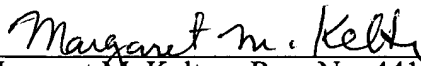
Claims 1-29 are pending in the application. Claim Claims 1-6, 18-20 and 26 have been amended, Claims 11-15, 17-18, 22-25 and 29 have been canceled, and Claims 31-36 have been added. The rejection of Claims 1, 6, 11, 16, 18, 19, 22 and 26 under 35 U.S.C. §112, second paragraph has been addressed by amendments and traversal. The rejection of Claims 1, 6, 11, 16,

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18-24 and 26-28 under 35 U.S.C. §102(e) has been traversed. The rejections of Claims 2, 3, 4, 5, 7, 8, 9, 10, 12, 13, 14, 15, 17 and 25 under 35 U.S.C. §103(a) have been traversed and addressed by amendments and cancellations to the claims. The objection to Claims 17 and 25 has been addressed by cancellation of the claims.

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

  
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